ARTICLE 18
LEAVES OF ABSENCE

A. General Provisions

In accordance with the provisions of this Article, leaves of absence, may be with or without pay and are subject to the approval of the University.

1. Non-medical – leaves of absence, with or without pay, include; leave for jury duty, administrative or legal proceedings or personal leaves.

2. Medical Leaves with or without pay, include Pregnancy Disability Leave, Family Care/Medical Leave, which includes both Family Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1995 (CFRA), and Disability Leave.

B. Benefit Eligibility

1. Approved leave without pay shall not be considered a break in service. Except as provided for Pregnancy Disability Leave and Family Care and Medical Leave (See Sections G and H of this Article), an eligible employee on approved leave without pay may elect to continue University-sponsored benefit plans for the period of the leave by remitting to the University the entire premium amount due for the period of approved leave, in accordance with Group Insurance Regulations. Regulations of the retirement systems determine the effects of leave without pay on retirement benefits.

2. If an employee is on leave without pay for more than half a calendar month, sick leave, vacation, and seniority credit do not accrue.

C. Pay Status

1. Periods on leave in a without-loss-of-straight-time pay status shall be considered time worked.

2. The provisions of Article 14 – Sick Leave, Article 15 – Vacation and Article 39 – University Benefits shall apply when employees are on approved leave without pay.

D. Requests for Leave

Except as provided in Section H. Family Care and Medical Leave, requests for leaves of absence and extensions thereof, both with and without pay, shall be submitted in writing. Such requests shall be submitted sufficiently in advance of the requested leave date to provide the University time to assess the operational impact of granting the request.

All requests for leave(s) of absence shall contain the requested beginning date, end date and any additional information as requested.

E. Return to Work

1. Except as provided in Section G. Pregnancy Disability Leave, and Section H. Family Care and Medical Leave, an employee who has been granted an approved leave with or without pay shall be returned to the same or a similar position in the same department/division when the duration of the leave is six (6) calendar months or less, or twelve (12) months, if extended. If the position held has been abolished or affected
by layoff during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff. The date of return to work is determined when the leave is granted.

2. An employee who has exhausted his/her original leave entitlement and who has been granted additional leave under another section of this Article, shall be reinstated in accordance with the provisions of the section under which the additional leave was granted.

3. An employee shall not be granted a leave of absence beyond the ending date of the employee’s appointment or predetermined date of separation.

4. An employee who fails to return to work from a leave of absence on the approved anticipated date of return or any approved extension shall be considered to have abandoned his/her job. Such absences shall be treated in accordance with Article 4– Resignation and Job Abandonment.

F. Personal Leave

1. An employee in a career position may be granted a personal leave for the employee’s convenience, subject to the operational needs and requirements of the University. In special situations, a personal leave for temporary employment outside the University may be approved provided that the outside work is in the interest of public service and/or will be beneficial to the University upon the employee’s return.

2. A personal leave may also be granted for extended illness or to care for a newborn or newly-adopted child.

3. A department head may approve a personal leave for a period not in excess of six (6) months. The Chancellor, upon recommendation of a department head, may approve extension of a personal leave for a total leave of not more than twelve (12) months.

G. Pregnancy Disability Leave

1. A female employee disabled on account of pregnancy, childbirth, or related medical conditions is entitled to a medical leave of absence in accordance with the provisions of this Article. Pregnancy Disability Leave may consist of leave without pay and/or paid leave such as accrued sick leave, accrued vacation leave, and compensatory time off. The employee shall provide written notice of the need for leave as soon as they become aware of it and, at a minimum, thirty (30) days in advance if possible.

2. Verification of medical disability for pregnancy-related purposes shall include, but is not limited to, a statement of a health care provider of the anticipated duration of disability; the estimate date of delivery; a statement that the employee is incapable of performing the essential functions of their job; and the anticipated date that the employee will be able to perform the essential assigned functions of their job.

3. Time Periods

   a) During the period of verified pregnancy-related/childbearing disability, the employee is entitled to and the University shall grant a medical leave of absence of up to four (4) months. If a career employee’s pregnancy-
related/childbearing medical disability continues beyond four (4) months, a personal leave of absence may be granted, for a total leave of absence not to exceed six (6) months.

b) If an employee on approved Pregnancy Disability Leave is also eligible for leave under the federal Family and Medical Leave Act, up to twelve (12) workweeks of such leave shall run concurrently. Upon termination of Pregnancy Disability Leave that runs concurrently with federal Family and Medical Leave, an employee shall also be entitled, if eligible, to up to twelve (12) workweeks of state Family Care and Medical Leave for any covered reason except pregnancy or a pregnancy-related medical condition. When parental leave is granted under Section H. Family Care and Medical Leave, the total of parental leave and pregnancy-related/childbearing disability leave, when taken in conjunction, shall not exceed seven (7) months.

4. Return from a Pregnancy/Disability Leave

An employee who has been granted a medical leave of absence for pregnancy/childbearing disability purposes shall be returned to the same job provided the employee returns to work immediately upon termination of the pregnancy-related/childbearing disability and provided such return is within four (4) months of the date on which the pregnancy-related/childbearing medical leave commenced. If the same job was abolished during the leave, a similar job will be offered. If a similar position is not available, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff. A female employee who is also granted Parental Leave — and Family Care and Medical Leave shall be returned to work in accordance with Section H of this Article.

5. Continuation of Health Benefits

An employee who exhausts their entitlement to health plan coverage while on approved Pregnancy Disability Leave shall not be entitled to an additional twelve (12) workweeks of health plan coverage during any FML leave she subsequently takes for Parental Leave or any other CFRA-covered reason provided the employee has not exhausted her CFRA leave entitlement for that leave year. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

H. Family Care and Medical Leave

1. Employees who have at least one (1) year of University service, and have at least one thousand two hundred fifty (1,250) actual hours of work during the twelve (12) month period immediately preceding the commencement of leave, are eligible for and shall be granted up to a total of twelve (12) workweeks of Family Care and Medical Leave in the leave year, except as otherwise provided in this Article. Actual hours worked does not include sick leave, vacation or compensatory time off hours or time paid for holidays or time spent in unrestricted on-call status. For employees granted military leave, all hours that would have been worked had the employee not been ordered to military duty shall be used to calculate the one thousand two hundred fifty (1,250) actual hours of work requirement.
2. Family Care Leave includes both Parental Leave and Family Illness Leave. Medical Leave is provided for the employee’s own serious health condition. Family Care and Medical Leave includes paid and unpaid absences, including use of an employee’s accrued sick leave, vacation and compensatory time, and leave of absence without pay. For purpose of the Section, leave year is defined as calendar year.

3. Definitions

a. **Parental Leave** is leave to care for the employer’s newborn or a child who has been placed with the employee for adoption or foster care.

b. **Medical Leave** is leave granted for the employee’s own serious health condition that makes the employee unable to perform the essential assigned functions of the employee’s position.

c. **Family Illness Leave** is leave to care for the employee’s child, parent or spouse with a serious health condition.

d. A family member for the purposes of family care leave is the employee’s biological, adopted, or foster child, stepchild, or legal ward who is under eighteen (18) years, a child for whom the employee stands in loco parentis, or an adult dependent child; a biological, foster, or adoptive parent, stepparent or legal guardian, an individual who stood in loco parentis while the employee was a child; spouse or same or opposite sex domestic partner.

e. An employee’s own serious health condition is an illness, injury, impairment, or physical or mental condition, that renders the employee unable to perform any one or all of the essential functions of the employee’s position and involves the following:

   1. inpatient care in a hospital, hospice, or residential medical care facility, or

   2. continuing treatment by a health care provider for:

      a) a period of incapacity of more than three (3) consecutive calendar days, or

      b) any period of incapacity or treatment due to a chronic serious health condition, or

      c) any period of incapacity which is permanent or long-term due to a condition for which treatment may be effective

f. **Health care provider** means an individual who is licensed in California to hold either a physician’s or surgeon’s certificate or an osteopathic physician’s and surgeon’s certificate, podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited to treatment of the spine to correct a subluxation as demonstrated in x-ray to exist), physician assistant, nurse practitioners and nurse-midwives performing within the scope of their practice, Christian Science practitioners or any health care provider that the employee’s health plan carrier recognizes for the purposes of payment.
g. **Equivalent position** has the same pay, benefits, and working conditions, including the same or substantially similar duties and responsibilities, which entail substantially equivalent skill, effort, responsibility, and authority.

4. **General Provisions**

a. **Time Periods**

1. For Family Care and Medical Leave purposes only, twelve (12) workweeks means twelve (12) workweeks in a leave year for full-time employees. For employees who work less than full time or who work full time but on alternative work schedules, the number of working days shall be adjusted on a pro-rata basis.

2. Parental Leave shall be initiated and concluded within one (1) year of the birth or placement for adoption or foster care of the employee’s child. The University shall grant a Parental Leave of at least one (1) day but less than two (2) weeks duration on any two occasions during any twelve (12) month period. The University, at its discretion, may require that any additional leaves requested during this same period be for a minimum duration of two (2) weeks, unless otherwise required by law. The total of Pregnancy Disability Leave and Parental Leave, when taken in conjunction, shall not exceed seven (7) months.

3. When medically necessary and supported by medical certification, the University shall grant an employee Family Illness and/or Medical Leave on a reduced work schedule or an intermittent basis including absences of less than one (1) day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the employee’s entitlement of twelve (12) workweeks in any twelve (12) month period.

4. Where the employee requests an intermittent leave or leave on a reduced leave schedule for a planned medical treatment, the University may, at its discretion, require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates recurring periods of leave than the employee’s regular position. Such transfer shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

5. A personal leave may also be granted for extended illness or to care for a newborn or newly-adopted child, to career employees who are ineligible for Family Care and Medical Leave or who are eligible for Family Care and Medical Leave but have exhausted their twelve (12) workweek entitlement in one (1) work year. Such leave may consist of leave without pay and/or paid leave such as accrued sick leave, vacation and compensatory time off. The leave shall be requested at least thirty (30) days in advance if possible.

6. The date of return is determined when the leave is granted. Extensions, if any, may be granted in accordance with this Article.

b. **Notice**
1. If the employee learns of the event giving rise to the need for more than thirty (30) days in advance, the employment shall provide the University with notice as soon as the employee learns of the need for leave, and, at a minimum, thirty (30) days prior to the commencement of the leave, if practicable.

2. If the need for the leave is foreseeable due to a planned medical treatment or the supervision of a family member’s medical treatment, the employee shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University’s operations.

3. If the employee learns of the event giving rise to the need for leave less than thirty (30) days in advance, the employee shall provide the University with as much advance notice as is practicable, and, at a minimum, within five (5) working days after learning of the event.

4. An employee who fails to give thirty (30) days’ notice for a foreseeable leave, with no reasonable basis for the delay, may have his/her Family Care and/or Medical Leave denied until thirty (30) days after the date on which the employee provides notice.

c. Certification

1. For the Employee’s Own Serious Health Condition

When leave is requested for the employee’s own serious health condition, the University may, at its discretion, require in writing that an employee’s request for Family Illness or Medical Leave be supported by a written certification issued to the University by the healthcare provider of the individual requiring care. The certification shall be on a form provided by the University and shall include the following:

a. For the serious health condition of the employee, the date on which the condition commenced;

b. a statement as to whether the employee is unable to perform any one or more of the essential assigned functions of the position including a statement of the function(s) the employee is unable to perform;

c. if known, and the probable duration of the condition and probable date of return to work;

d. whether it will be medically necessary for the employee to take leave intermittently or to work on a reduced work schedule, and if so, the probable duration of such schedule;

e. if the condition is chronic and the employee is presently incapacitated, the duration and frequency of episodes of incapacity.

f. Should there be any questions regarding the validity of the employee’s medical certification for his/her own serious health condition, the University may, at its discretion, require the employee
to obtain a second medical opinion from a second health care provider. Should the second health medical opinion differ from the employee’s own health care provider, the University may require a third medical opinion from a third health care provider jointly approved by the University and the employee. The University shall bear the cost of the second and third opinions, and the third opinion shall be final.

g. If additional leave is requested upon expiration of the leave granted, the University may, at its discretion, require the employee to obtain recertification. Such requests for subsequent certification shall be in writing.

h. If certification or recertification is required, the employee shall return the certification within fifteen (15) calendar days of the University’s request, where practicable. Failure to provide certification for a foreseeable leave within the requested time period may result in denial of continuation of the leave until the required certification is provided. If the employee fails to provide a completed certification, the employee shall be given fifteen (15) calendar days to perfect the certification. Failure to perfect an incomplete certification may result in denial of the leave or denial of continuation of the leave.

2. For the Employee’s Family Member

A serious health condition for the purposes of family illness leave is an illness, injury, impairment, or physical or mental condition which warrants the participation of the employee to provide supervision or care during a period of treatment or incapacity including psychological comfort.

When leave is requested to care for the employee’s seriously ill family member, the University may, at its discretion, require in writing that an employee’s request for Family Illness or Medical Leave be supported by a written certification issued to the University by the health care provider of the individual requiring care.

The certification shall be on a form provided by the University and shall include the following:

a) The certification should include for the employee’s family member a statement that the family member has a serious health condition which warrants the participation of a family member to provide supervision or care and an estimate of the amount of time that the health care provider believes the employee is needed to provide care during the period of treatment or supervision of the individual requiring care.

b) Whether the employee will need to care for the family member intermittently or on a reduced work schedule, and the probable duration that the employee is needed to provide care.

c) Confirmation of Family Relationship
i. University may, at its discretion, require an employee requesting leave to care for a family member with a serious health condition or requesting Parental Leave, to provide documentation of the familial relationship or proof of birth, placement for adoption or in foster care.

ii. Failure to provide documentation within fifteen (15) calendar days of the University’s request may result in delay of the leave until the required documentation is provided. If the employee fails to provide the required documentation and the leave has not begun, the request for family and/or medical leave will be denied. If the leave has begun, the leave may, at the University’s discretion, be discontinued; however, any leave taken is not FMLA leave.

3. Return to Work

An employee who has been granted a Medical Leave for reasons other than pregnancy-related/childbearing disability shall be returned to the same or an equivalent position when the employee has been medically released to perform the essential job functions of his/her job. Failure to provide a medical release to return to work may result in the denial of the reinstatement until after the employee submits the required medical release certification. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the employee shall be afforded the same considerations which would have been afforded had the employee been on pay status when the position was abolished or affected by layoff. A limited employee granted a Family Care and/or Medical Leave is not entitled to reinstatement to his/her position if the employee’s limited appointment ending date occurs before the scheduled return date.

When the employee requests an intermittent leave or a reduced work schedule, the University may, at its sole, non-grievable discretion, require the employee to transfer temporarily to an available alternate position which the employee is qualified for and which better accommodates the employee’s recurring period of leave. Such transfer shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

An employee who fails to return to work on the approved anticipated date of return or any approved extension shall be considered to have abandoned his/job. Such absences shall be treated in accordance with Article 44 – Resignation and Job Abandonment.

4. Use of Accrued Paid Leave

a. An employee on approved Family Illness Leave may, at the discretion of the University, elect to use accrued vacation time and/or compensatory time off before taking leave without pay. If the employee’s vacation leave accrual is at maximum, the employee will be required to use at least ten (10) percent of the vacation leave.
credit prior to taking leave without pay. Up to forty (40) hours of accrued sick leave per year may be substituted for Family Illness Leave granted under this Section, pursuant to Article 14 - Sick Leave, Section E. 5.

b. An employee on an approved Parental Leave may elect to use accrued vacation time and/or compensatory time off before taking leave without pay. If the employee’s vacation leave accrual is at maximum, the employee will be required to use at least ten (10) percent of the vacation leave credit prior to taking leave without pay.

c. An employee on leave for his/her own serious health condition shall use accrued sick leave in accordance with the University’s disability plan or as provided under Article 16 – Work-Imcurred Injury or Illness. Employees not eligible for University disability benefits who are not on leave due to a work-incurred illness or injury shall use accrued sick leave prior to taking medical leave without pay. An employee may elect to use accrued compensatory time off or accrued vacation before taking leave without pay. However, if the employee’s vacation leave accrual is at maximum, the employee will be required to use at least ten (10) percent of the vacation leave credit prior to taking leave without pay.

5. Duration

a. Family Care and Medical Leave shall not exceed twelve (12) workweeks in any leave year. In the event University policy and/or State or Federal law result in a different date of commencement for this twelve (12) month period, the commencement period for employees in this bargaining unit shall conform to the commencement date generally applicable to other University employees.

b. For the purpose of FMLA, only, twelve (12) workweeks is equivalent to four hundred eighty (480) hours of scheduled work for full-time employees who are normally scheduled for an eight (8) hours per day five (5) days per workweek (8/40) schedule. While the use of FMLA leave need not be consecutive, in no event shall an employee’s aggregate use of FMLA leave exceed a total of twelve (12) weeks within the leave year.

c. For employees who work part-time or a schedule other than an 8/40, the number of FMLA leave hours to which the employee is eligible shall be adjusted in accordance with his/her normal weekly work schedule. An employee whose schedule varies from week to week is eligible for a pro-rated amount of FMLA leave based on her/his hours worked over the previous twelve (12) weeks preceding the leave.
d. When medically necessary and supported by medical certification, the University shall grant an eligible employee’s request for a reduced work schedule or intermittent leave including absences of less than one (1) day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the employee’s entitlement of twelve (12) workweeks in the leave year.

e. When the employee requests an intermittent leave or reduced work schedule, the University may, at its discretion, require the employee to transfer during the time of restriction to an available alternate position for which the employee is qualified and which better accommodates the employee’s recurring period of leave. Such transfer shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

6. Continuation of Health Benefits

a. An employee on an approved Family Care and/or Medical Leave shall be entitled, if eligible, to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for a period of up to twelve (12) workweeks in the leave year. However, an employee who exhausts their entitlement to health plan coverage while on approved Pregnancy Disability Leave shall not be entitled to an additional twelve (12) workweeks of health plan coverage during any FML leave she subsequently takes for Parental Leave or any other CFRA-covered reason provided the employee has not exhausted her CFRA leave entitlement for that leave year. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

7. Deferral or Denial of Family Care Leave Requests

a. An employee who fails to give thirty (30) days’ notice for a foreseeable leave in accordance with Section H4.b.1, with no reasonable basis for the delay, may have his/her request for leave denied or deferred until the requested certification is provided.

b. An employee who fails to provide certification or recertification as required may have his/her request for leave denied or deferred until the requested certification is provided.

c. An employee who fails to provide a required medical release certification to return to work who may have his/her reinstatement denied until a medical release certification is provided.

8. Review of Denials or Deferrals of Family Care Leave Requests

a. If an employee’s request for Family Care and/or Medical Leave is denied, deferred, or otherwise provided short of the employee’s initial request, such University action may, upon the employee’s written request, be reviewed by the Department Head.
I. Disability Leaves other than FMLA/CFRA/Pregnancy Leave

A disability leave of absence with or without pay is a leave due to non-work related illnesses or injuries. An eligible career employee shall be granted leave from work for medical reasons. This leave includes the combined use of accrued sick leave and disability leave of absence without pay in accordance with the provisions of this Article and Article 14 – Sick Leave.

a. Eligibility

An employee may be eligible for a disability leave of absence with or without pay when he/she has exhausted his/her twelve (12) workweek Family Care/Medical Leave entitlement in a calendar year, or he/she is not otherwise eligible for Family Care/Medical Leave, or the employee has exhausted his/her four (4) month entitlement under Pregnancy Disability Leave, and he/she:

1. is medically incapable of performing the essential assigned functions of his/her job due to a non-work related illness or injury and

2. has furnished evidence of disability satisfactory to the University.

b. Duration

When the use of accrued sick leave and a disability leave of absence without pay are combined, a disability leave may be granted by the University for a total period of verified disability not to exceed six (6) months.

c. An employee granted a disability leave who is also applying for University disability for non-work related disability purposes shall use all accrued sick leave in accordance with University’s disability plan prior to taking leave without pay.

d. In the event that the employee’s accrued sick leave is greater than six (6) months, a disability leave of absence without pay in addition to the use of all accrued sick leave, shall not be granted.

e. If an extension to a disability leave of absence within the total six (6) month period is not granted, an employee will be medically separated in accordance with Article 30 – Medical Separation.

f. An employee who is receiving long term disability payments from a retirement system to which the University contributes will be medically separated on the basis of medical condition in accordance with Article 30 – Medical Separation.

g. Return to Work – The employee shall not be reinstated from medically-related leave of absence until a medical release certification is provided to the University within the time limits specified by the department. A medical release certification shall include a statement by the employee’s health care provider of the employee’s ability to perform the essential functions of the position.

J. Jury Duty

1. When summoned, an employee shall be granted leave with pay for actual time spent on jury service and in related travel, not to exceed the employee’s scheduled number of hours of work.
2. During the time a full-time employee is responsible to the court for jury duty, the University will convert the employee’s usual work shift to a regular five (5) day, Monday through Friday, day shift basis.

3. When summoned, a part-time employee in a career position shall be granted leave with pay for actual time spent on jury service and in related travel which occur during the employee’s regularly scheduled hours of work.

4. Employees shall provide a proof of jury service from the court to supervision upon return.

K. Witness Pay

When served with a subpoena which compels the employee’s presence as a witness, a full-time employee in a career position on any shift or work schedule shall be granted leave with pay for actual time he/she was required to spend at the administrative or legal proceedings and in related travel, not to exceed the number of hours in the employee’s normal work day and the employee’s normal work week. A part-time employee in a career position shall be granted leave with pay for time he/she was required to spend at the proceedings and in related travel which occurs during the employee’s regularly scheduled hours of work. Leave with pay shall not be granted when an employee is the plaintiff or defendant in a proceeding, is called or subpoenaed as a paid expert witness not on behalf of the University, or is called or subpoenaed because of duties for another employer.

L. Leave For Work-Incurred Disability

An employee who is off pay status and receiving temporary disability payments under the Workers’ Compensation Act may be granted, at the discretion of the department head, a leave without pay for all or part of the period during which temporary disability payments are received, except that any leave without pay which is granted shall not extend beyond a predetermined date of separation.